



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

January 4, 1991

Mr. Jerry C. Gilmore
Town Attorney
Flower Mound, Texas
1717 Main Street, Suite 4400
Dallas, Texas 75201

OR91-006

Dear Mr. Gilmore:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11341.

The city of Flower Mound received an open records request for, inter alia, incident reports and other police records pertaining to disturbances at a particular mobile home park. You contend that sections 3(a)(3) and 3(a)(8) protect the requested information because the information relates to pending criminal, and possible civil, litigation.

A previous determination of this office, Open Records Decision No. 127 (1976), a copy of which is enclosed, resolves your request in part. For this reason, you must release all of the types of information held to be public in that decision. You may, however, withhold the complainant's "Voluntary Statement" pursuant to section 3(a)(8). See id.

To secure the protection of section 3(a)(3), a governmental body must first demonstrate that a judicial or quasi-judicial proceeding is pending or reasonably anticipated. Open Records Decision No. 452 (1986). The mere chance of litigation will not trigger the 3(a)(3) exception. Open Records Decision No. 328 (1982) (copy enclosed). You have not demonstrated that the likelihood of civil litigation against the city is more than mere conjecture. Consequently, the complaint against the Flower Mound Police Department contained in the "Affidavit In Any Fact" is not protected by section 3(a)(3). Further, because the complaint only marginally relates to the criminal charges, this

document* does not come under the protection of section 3(a)(8) and must therefore be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-006.

Yours very truly,



Jim Moellinger
Assistant Attorney General
Opinion Committee

JM/RWP/le

Ref.: ID# 11341

Enclosures: Open Records Decision Nos. 328, 127

cc: H.C. McCracken
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